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IN THE UNITED STATES DISTRICT COURT, DISTRICT OF UTAH  
CENTRAL DIVISION

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UNITED STATES OF AMERICA,	:	Civil Nos. 2:07 CV827 DAK
Petitioner,	:	<b>REPORT &amp; RECOMMENDATION</b>
vs.	:	
JONATHAN L. CRANER, JC	:	Honorable Dale A. Kimball
CUSTOM CONSTRUCTION & DESIGN,	:	Magistrate Judge Brooke Wells
Respondent.	:	

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The United States of America filed a petition to enforce its May 2, 2007 IRS Summons (“the Summons”) pursuant to [26 U.S.C. §§ 7402\(b\)](#) and 7604(a). Judge Kimball issued an Order to Show Cause (“OTSC”) on October 30, 2007, which referred this matter to the undersigned under [28 U.S.C. § 636\(b\)\(3\)](#).

The OTSC directed Respondent to file a written response supported by sworn affidavits to the United States’ Petition to Enforce the Summons (“the Petition”) within ten days of the OTSC being served upon him. The OTSC also directed the undersigned to convene a hearing on December 11, 2007 at 9:00 a.m. to hear any arguments that would assist the undersigned in determining whether Respondent has shown cause.

On November 13, 2007, prior to being served with the Petition and the OTSC, Respondent filed a response in which he indicated that he could neither admit nor deny the allegations in the OTSC because the copy that Respondent received from the Court did not contain the attachments

mentioned in the OTSC. On November 26, 2007, Respondent was personally served with a copy of the Petition and OTSC with attachments.

On December 11, 2007, this Court convened a hearing at which Respondent was present appearing pro se, and Petitioner was present appearing through Assistant United States Attorney Jared C. Bennett. Based on the arguments and representations presented in the Petition and at the December 11, 2007 hearing, the undersigned reports the following:

1. The United States has carried its burden of proof to enforce the Summons. Through the Summons and the declaration of the revenue officer that were attached to the Petition, the United States established that: (1) it sought the summoned information for a legitimate purpose, (2) the summoned information is relevant to the legitimate purpose, (3) the summoned information was not already in the possession of the United States; and (4) that the United States followed proper administrative procedures.

2. Once the United States has established its initial burden of proof, the burden shifts to Respondent to show why he should not be compelled to comply with the Summons. Respondent did not file a response in this action after being served with the Petition and the OTSC. In any event, Respondent agreed to comply with the Summons within 30 days from the date the District Court adopts this Report and Recommendation.

Consequently, the undersigned recommends that:

1. The District Court find that Respondent has failed to show cause why he should not be compelled to comply with the Summons; and

2. The District Court order Respondent to provide the IRS with the information required by the Summons, which includes documents and testimony, within 30 days from the date that the

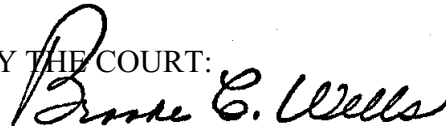
District Court adopts this Report and Recommendation. The IRS offices are located at 50 South 200 East, Salt Lake City, Utah 84111.

Within 10 days after being served with a copy of this Report and Recommendation, a party may serve and file specific, written objections. A party may respond to another party's objections within 10 days after being served with a copy thereof. Pursuant to [28 U.S.C. § 636\(b\)\(1\)\(C\)](#), the District Judge to whom this case is assigned shall make a de novo determination upon the record of any portion of the undersigned's disposition to which specific written objection has been made. The District Judge may accept, reject, or modify the recommended decision, receive further evidence, or re-commit the matter to the magistrate judge with instructions.

28<sup>th</sup>

DATED this ~~11<sup>th</sup>~~ day of December 2007.

BY THE COURT:

A handwritten signature in black ink, appearing to read "Brooke E. Wells". The signature is written in a cursive, flowing style.

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BROOKE WELLS, Magistrate Judge  
United States District Court

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that I am an employee of the United States Attorney's Office for the District of Utah, and that a copy of the foregoing **REPORT & RECOMMENDATION** was mailed, postage prepaid, this 11th day of December 2007 to the following:

Jonathan L. Craner  
7435 South 530 West  
Willard, UT 84340

/s/ Jared C. Bennett